

UNITED STATES DISTRICT COURT  
WESTERN DISTRICT OF MICHIGAN  
SOUTHERN DIVISION

UNITED STATES OF AMERICA,

Plaintiff,

CASE NO. 1:20-CR-183

v.

HON. ROBERT J. JONKER

ADAM DEAN FOX,  
BARRY GORDON CROFT, JR.,  
KALEB JAMES FRANKS,  
DANIEL JOSEPH HARRIS, and  
BRANDON MICHAEL-RAY CASERTA,

Defendants.

/

**ORDER AFFIRMING MAGISTRATE JUDGE'S DECISION**

On September 2, 2021, Magistrate Judge Berens issued an order (ECF No. 325) denying Defendant Kaleb Franks's Motion for Disclosure of All Records Related to Confidential Human Sources (ECF No. 258).<sup>1</sup> Defendant Franks now appeals the Magistrate Judge's decision. (ECF No. 343.) The government has responded. (ECF No. 348.) The Court finds oral argument unnecessary to decide the appeal.

Under FED. R. CRIM. P. 59(a), a "district judge may refer to a magistrate judge for determination any matter that does not dispose of a charge or defense." Under LCrimR 57.1(a), a magistrate judge may hear and determine any procedural or discovery motion or other pretrial matters...." On a timely appeal of a magistrate judge's decision on a discovery matter, the district judge "shall set aside any portion of the magistrate judge's order found to be clearly erroneous or

---

<sup>1</sup> The Magistrate Judge's order incorporates by reference the Magistrate Judge's ruling from the bench at the hearing on the motion. A transcript of the hearing is docketed as ECF No. 338.

contrary to law.” LCrimR 57.1(e) (incorporating LCivR 72.3). *See also* FED. R. CRIM. P. 59(a). A factual finding is clearly erroneous “when the reviewing court on the entire evidence is left with the definite and firm conviction that a mistake has been committed.” *United States v. McGee*, 494 F.3d 551, 554 (6th Cir. 2007) (quoting *Tran v. Gonzalez*, 447 F.3d 937, 943 (6th Cir. 2006) (abrogated on other grounds by *Nasrallah v. v. Barr*, 140 S. Ct. 1683 (2020))).

The Court has reviewed all pertinent matters of record and finds that Defendant Franks has failed to establish that any portion of the Magistrate Judge’s decision was contrary to law or clearly erroneous. Accordingly, there is no basis to set aside any portion of the decision.

**ACCORDINGLY, IT IS ORDERED:**

1. Defendant Franks’s Appeal of Magistrate Judge’s Order (ECF No. 343) is **OVERRULED**.
2. The Magistrate Judge’s Order (ECF No. 325) is **AFFIRMED**.

Dated: October 7, 2021

/s/ Robert J. Jonker  
ROBERT J. JONKER  
CHIEF UNITED STATES DISTRICT JUDGE